



California Regional Water Quality Control Board Lahontan Region



Linda S. Adams
Secretary for
Environmental Protection

2501 Lake Tahoe Boulevard, South Lake Tahoe, California 96150
(530) 542-5400 • Fax (530) 544-2271
www.waterboards.ca.gov/lahontan

Arnold Schwarzenegger
Governor

APR 14 2009

READ FILE

Mohammad Ahmad
Tahoe Tom's Gas Station
4029 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

CERTIFIED MAIL: 7008 1300 0001 6173 9974

The Thomas E. Erickson Trust
Attn: Thomas E. Erickson
1468 Ashbrook Circle
Medford, OR 97501

CERTIFIED MAIL: 7008 1300 0001 6173 9981

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R6T-2009-0011

Enclosed please find Administrative Civil Liability Complaint (Complaint) No. R6T-2009-0011 against Mr. Mohammad Ahmad and The Thomas E. Erickson Trust (together "Dischargers") for failure to comply with requirements of Cleanup and Abatement Order No. R6T-2007-0038. The Complaint recommends the California Regional Water Quality Control Board, Lahontan Region (Water Board), impose a civil liability of \$246,700 for these violations.

Waiver of Hearing

Pursuant to Water Code section 13323, the Water Board will hold a hearing on the Complaint no later than 90 days after it is served. The Dischargers may elect to waive their right to a hearing before the Water Board and agree to pay the proposed liability. Waiver of the hearing constitutes admission of the validity of the allegations of violation in the Complaint and acceptance of the assessment of civil liability in the amount of \$246,700 as set forth in the Complaint. If you wish to exercise this option, you must complete the following:

1. **By 5:00 p.m., May 28, 2009**, an authorized agent must sign the enclosed waiver and submit it to the Water Board, along with cashier's checks in the amount of \$119,200 made payable to the "State Water Pollution Cleanup and Abatement Account" and \$127,500 made payable to the "State Waste Discharge Permit Fund";
2. **By May 29, 2009**, the Dischargers must publish the enclosed public notice in the Tahoe Daily Tribune; and
3. **By 5:00 p.m., June 4, 2009**, the Dischargers must submit verification to the Water Board that the enclosed public notice has been published.

California Environmental Protection Agency



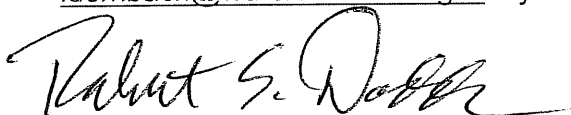
Recycled Paper

Please note that the Dischargers' waiver and agreement to pay the proposed liability constitutes a proposed settlement that will not become final until after a 30-day public comment period, as provided by the State Water Resources Control Board Water Quality Enforcement Policy (version dated February 12, 2002). As described in the enclosed waiver, the Water Board's Assistant Executive Officer may withdraw the Complaint, return payment and issue a new complaint should new information be received during the comment period. If no information is received that causes the Assistant Executive Officer to withdraw the Complaint, the settlement will be brought before the full Water Board for approval at a future meeting. **The settlement will not be effective until approved by the Water Board.**

Public Hearing

Alternatively, if the Dischargers elect to proceed to a public hearing, a hearing is tentatively scheduled to be held at the Water Board meeting on July 8-9, 2009. The meeting is scheduled to convene at a time and location as announced in the Water Board meeting agenda. The agenda will be issued at least ten days before the meeting and will be posted on the Water Board web page at <http://waterboards.ca.gov/lahontan>. At that time, the Water Board will accept testimony and public comment and decide whether to affirm, reject, or modify the proposed liability, or whether to refer the matter for judicial civil action.

Please contact State Water Resources Control Board Office of Enforcement Attorney David Boyers at (916) 341-5276 or Ms. Lisa Dernbach at (530) 542-5424 or via e-mail at ldernbach@waterboards.ca.gov if you have any questions concerning this matter.



Robert S. Dodds
Assistant Executive Officer

Enclosures: 1. Complaint No. R6T-2009-0011
2. Waiver of Public Hearing Form
3. Public Notice of Waiver

cc: Harold J. Singer, Executive Officer, Water Board
David Boyers, Senior Staff Counsel, SWRCB Office of Enforcement
David Coupe, Staff Counsel, SWRCB Office of Chief Counsel
Tahoe Tom's mailing list

LSD:chlT:Tahoe Tom ACL Complaint Transmittal Letter 4-09
Send to file: UGT-El Dorado County, 6T0080A





California Regional Water Quality Control Board

Lahontan Region



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STATE OF CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN REGION

In the Matter of Mohammad Ahmad and
The Thomas E. Erickson Trust: Violation of
Cleanup and Abatement Order (CAO)
No. R6T-2007-0038, Tahoe Tom's Gas Station,
4029 Lake Tahoe Boulevard, South Lake Tahoe,
El Dorado County

) COMPLAINT NO.
) R6T-2009-0011
) FOR ADMINISTRATIVE
) CIVIL LIABILITY

MOHAMMAD AHMAD AND THE THOMAS E. ERICKSON TRUST, YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are charged with violating provisions of law and regulations for which the California Regional Water Quality Control Board, Lahontan Region (Water Board) may impose administrative civil liability pursuant to Water Code section 13350, subdivision (a)(1) and Water Code section 13268, subdivision (a)(1).
2. Unless waived, a hearing on this matter will be held before the Water Board within 90 days following the issuance of this Complaint. Mohammad Ahmad and The Thomas E. Erickson Trust, or their representatives, will have an opportunity to address and contest the allegations in this Complaint and the imposition of civil liability by the Water Board.
3. At the hearing, the Water Board will consider whether to affirm, reject, or modify (either increase or decrease) the proposed civil liability, or whether to refer the matter to the Attorney General for assessment of judicial civil liability.

ALLEGATIONS

4. The Tahoe Tom's Gas Station ("Facility") is located at 4029 Lake Tahoe Boulevard in the City of South Lake Tahoe, El Dorado County, as shown in Attachment A of this Complaint.
5. The Thomas E. Erickson Trust was the property owner of the Facility, on record with El Dorado County in 2007, with Mr. Thomas E. Erickson listed as the agent for service of process. On April 15, 2008, the facility and property were sold to Stateline



Gasoline, Inc., with Mohammad Ahmad listed as the agent for service. Mohammad Ahmad is the operator of the underground storage tanks at the Facility, according to El Dorado County Department of Environmental Management. Both Mohammad Ahmad and The Thomas E. Erickson Trust are identified in CAO No. R6T-2007-0038 as the parties responsible for complying with the CAO. For the purposes of this Complaint, these two parties will be hereinafter referred to as the "Dischargers."

6. Thomas E. Erickson and other parties were the subject of CAO No. 6-98-42 issued in 1998 and amendments issued in 1999 and 2000 for petroleum releases at the Facility that adversely affected groundwater quality and threatened water wells in the area. Between 1999 and 2007, Thomas E. Erickson and the other parties had a sporadic record of compliance with CAO 6-98-42A1 and the amendments. Five Notices of Violation were issued to the responsible parties for failing to continuously operate the remediation system and/or conduct quarterly groundwater monitoring and reporting.
7. On October 11, 2002, the El Dorado County Superior Court issued an Order of Stipulation against Thomas E. Erickson for failure to comply with directives in amended CAO No. 6-98-42A2. The Order required corrective action be immediately taken to come into compliance with directives in the amended CAO. Mr. Erickson implemented corrective actions and came into compliance with the amended CAO in November 2002.
8. In July 2006, Mr. Erickson and the other parties ceased all corrective actions at the site; lack of funds was identified as the reason for the work stoppage. The Attorney General's Office, acting on behalf of the Water Board, requested copies of financial documents to support the claim of lack of funds. No financial documents were ever submitted.
9. In December 2006, the Attorney General's Office filed a motion in El Dorado County Superior Court to find Mr. Erickson in contempt of the 2002 Stipulated Order. The motion was approved on January 12, 2007, and the court ordered Mr. Erickson to resume the operation of remediation systems at the site and groundwater monitoring activities. In February 2007, Mr. Erickson resumed operation of the remediation systems and conducted groundwater monitoring.
10. The First Quarter 2007 Groundwater Monitoring Report contains results of monitoring wells sampled at the site during February 2007. The report shows petroleum hydrocarbon concentrations, with the exception of MTBE, increasing in groundwater compared to previous sampling events. The highest levels of hydrocarbons were detected in a water sample from recovery well RW-10:

Benzene	2,600 µg/L
Toluene	10,000 µg/L
Ethylbenzene	1,200 µg/L
Xylenes	9,400 µg/L
Methyl tertiary butyl ether (MTBE)	230 µg/L

11. On June 11, 2007, the Water Board Executive Officer issued an order to Mr. Erickson and Mr. Ahmad to submit a technical report documenting an investigation of potential discharges of gasoline to groundwater at the Facility. The order stated that monitoring data in the First Quarter 2007 Groundwater Sampling Results Report shows petroleum hydrocarbon concentrations increasing in groundwater beneath the site. Such information was consistent with a new release at the site. A technical report describing the investigation and results was due to the Water Board by July 11, 2007. When a technical report was not received by the deadline, the Water Board Executive Officer issued a Notice of Violation, dated July 25, 2007, to the same two parties.
12. On September 14, 2007, the Water Board received a document, prepared by CalClean on behalf of Mr. Ahmad, describing a tracer test investigation undertaken to determine the source of the additional petroleum discharge to the groundwater. The report stated that three fill and turbine sumps and all four dispenser nozzles failed the tracer test. The results indicated that these areas were the source of releases at the site affecting water quality. The document stated that equipment failures would be corrected shortly. To date, the Water Board has not received documentation verifying that repairs were made to the underground storage tank and dispenser system.
13. Based on water sample results listed in Finding No. 10 and the tracer test results noted in Finding No. 12, a new unauthorized release of petroleum hydrocarbons is indicated at the Facility. The indication of a new release is supported by the increase in concentration of volatile organic compounds by two or more orders of magnitude compared to water samples from 2005. The lack of increase in MTBE concentrations in water samples suggests that the release occurred after the 2003 phase-out of MTBE in gasoline.
14. On December 14, 2007, the Water Board Executive Officer issued CAO No. R6T-2007-0038 to Mohammad Ahmad and The Thomas E. Erickson Trust for the unauthorized release of petroleum products to a drinking water aquifer (Attachment B). The CAO required the Dischargers to take the following actions: (1) report actions to stop the source of the release, (2) conduct groundwater monitoring and submit technical reports, (3) operate the on-site pump and treat system to contain plume migration, (4) investigate the extent of the discharge, and (5) propose cleanup of contamination in soil and groundwater. Specifically, the CAO provided, in relevant part:

"4. Corrective Actions for the Release.

- 4.2 **By January 3, 2008**, submit a technical report to the Water Board describing corrective actions taken to stop the release at the Facility.

- 4.3 Continue to operate the existing remediation systems (pump and treat system and soil vapor extraction system) until an alternate remediation system is proposed and implemented or it is determined by the Water Board...that the operation of the remediation system is no longer necessary to address the problem.

5. Groundwater Monitoring and Reporting

- 5.2 **Beginning April 15, 2008**, and every three months thereafter, submit a technical report to the Water Board describing groundwater monitoring results for the prior quarter.

6. Contaminant Investigation

- 6.1. **By February 1, 2008**, submit a workplan to the Water Board that is designed to determine the lateral and vertical extent of petroleum hydrocarbons in soil and groundwater due to the release at the Facility.
- 6.2. **By February 22, 2008**, implement the site investigation workplan, as accepted by Water Board staff, for determining the extent of contamination in soil and groundwater. Notify the Water Board within one working day of implementing the investigation.
- 6.3. **By April 10, 2008**, submit a technical report to the Water Board that describes the soil and groundwater investigation conducted at the site in accordance with the workplan accepted by Board staff.

7. Corrective Action Plan (CAP)

- 7.1. **By May 6, 2008**, submit a CAP to the Water Board to abate impacts to soil and groundwater from discharges at the Facility."

- 15. On February 2, 2008, the Water Board received a letter from Mr. Erickson stating that the remediation systems at the site had ceased operating due to inclement weather. The letter further stated that there were no funds available to fix the remediation systems and continue their operations.
- 16. On February 26, 2008, the Water Board Executive Officer issued a Notice of Violation to the Dischargers for violation of the CAO (Attachment C). The Notice states that the Dischargers were in violation of two directives in the CAO. The Dischargers failed to comply with directive No. 4.2 and submit a technical report describing corrective actions taken to stop the release at the Facility. The Dischargers also failed to comply with directive No. 6.1 and submit a workplan for determining the extent of petroleum contamination in soil and groundwater. The Notice informed the Dischargers that continued violation of the CAO would result in enforcement actions against them.

17. On April 8, 2008, the Water Board Executive Officer issued a Notice of Non-Compliance to The Thomas E. Erickson Trust for violation of the CAO, the amended CAO No. 6-98-42A2 and the 2002 Stipulated Order (Attachment D). The Notice states that the Dischargers were in violation of directive Nos. 4.2, 6.1, and 6.2 in the CAO for failure to implement corrective actions and to implement the investigation to determine the extent of contamination at the site. The Notice also informed The Thomas E. Erickson Trust and the former gas station operator, Samina Naz, that they were in violation of amended CAO 6-98-42A2 and the 2002 Stipulated Order since remediation systems ceased operating at the site in February 2008 and have not been turned back on. The Dischargers and Samina Naz were warned that their non-compliance status would result in enforcement actions against them.
18. On May 23, 2008, the Water Board received the First Quarter 2008 Groundwater Monitoring Report. The Report was submitted 38 days past the April 15, 2008 deadline listed in directive No. 5.2 of the CAO. The Report states that groundwater sampling was conducted on March 4, 2008 at seven of the eighteen monitoring locations listed in CAO No. R6T-2007-0038. Eleven locations, including RW-10, could not be sampled due to snowpiles. The Report states that the well location having the greatest detectable levels of petroleum hydrocarbons was vapor extraction well VE-13, next to the station building:

Benzene	522 µg/L
Toluene	2,920 µg/L
Ethylbenzene	1,060 µg/L
Xylenes	6,700 µg/L
MTBE	46 µg/L
Total Petroleum Hydrocarbons (gas)	25,400 µg/L

The report was incomplete in that it failed to discuss the pump and treat system and the vapor extraction system operations, or lack thereof, at the site.

19. On May 23, 2008, the Water Board received a facsimile from Gallardo and Associates on behalf of Mr. Ahmad, containing information about corrective actions taken to stop the release at the Facility in October 2007. The information was submitted to the Water Board 141 days past the January 3, 2008 deadline listed in directive No. 4.2 of CAO R6T-2007-0038.
20. On October 17, 2008, Water Board staff received notification from LMR Consulting that the remediation systems had been repaired and were operational beginning on October 16, 2008. This information was verified by Water Board staff during a site visit.

21. Violations – CAO No. R6T-2007-0038

As of November 30, 2008, the Dischargers have violated seven of nine CAO directives, as discussed in further detail below:

Directive No. 4.2. – Dischargers did not submit a technical report, as required, until May 23, 2008, **141 days** past the deadline of January 3, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No 4.3. – Dischargers failed to continually operate the existing remediation systems until October 16, 2008, **255 days** after ceasing operations on February 2, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13350.

Directive No. 5.2. – Dischargers failed to submit quarterly monitoring reports by their respective deadlines on two occasions. The First Quarter 2008 monitoring report was not received until June 9, 2008, **38 days** past the deadline of April 15, 2008. The Second Quarter 2008 monitoring report, due by July 15, 2008, was never received. The violation continued until the Third Quarter 2008 monitoring report was received on September 30, 2008. There were **77 days** of violation between July 15 and September 30, 2008. The total number of days of violation pursuant to Directive 5.2 is **115**. These violations subject the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.1. – Dischargers failed to submit a workplan proposing a site investigation to define the extent of soil and groundwater contamination from the new release until September 16, 2008, **228 days** past the deadline of February 1, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.2. – Dischargers failed to implement the site investigation workplan, as required pursuant to Directive 6.2, until October 21, 2008, **242 days** past the deadline of February 22, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 6.3. – Dischargers failed to submit the site investigation technical report required pursuant to Directive 6.3 until November 24, 2008, **228 days** past the deadline of April 10, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

Directive No. 7. – Dischargers failed to submit a CAP through December 30, 2008, to abate impacts to soil and groundwater from discharges at the Facility, **238 days** past the deadline of May 6, 2008. This violation subjects the Dischargers to civil liability pursuant to Water Code section 13268.

22. Administrative Civil Liability Authority – Water Code Section 13350

The Water Board may impose civil liability pursuant to Water Code section 13350, subdivision (a). Water Code section 13350, subdivision (a) states, in part:

“Any person who (1) violates any cease and desist order or cleanup and abatement order hereafter issued, reissued, or amended by a regional board or the state board, ... shall be liable civilly, and remedies may be proposed, in accordance with subdivision (d) or (e).”

The Dischargers failed to conduct interim remediation to contain plume migration, as described by directive No. 4.3 and required pursuant to Water Code section 13304. The Water Board is therefore authorized to impose civil liability pursuant to Water Code section 13350.

23. Administrative Civil Liability Authority – Water Code Section 13268

The Water Board may impose civil liability pursuant to Water Code section 13268, subdivision (a)(1). Water Code section 13268, subdivision (a)(1) states, in part:

“Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of Section 13267, ..., is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).”

The Dischargers failed to provide technical reports for describing actions to stop the source of the release, quarterly groundwater monitoring, investigating the extent of the discharge, and proposing clean up of contamination in soil and groundwater, as described by directive Nos. 4 through 7 of the CAO, and required pursuant to Water Code section 13267. The Water Board is therefore authorized to impose civil liabilities pursuant to Water Code section 13268.

PROPOSED CIVIL LIABILITY

24. Civil Liability – California Water Code

Any person who violates any cleanup and abatement order shall be liable civilly, and remedies may be proposed. The Water Board may impose civil liability in an amount up to that specified by the Water Code. Section 13350, subdivision (e)(1) states, in part:

“(e) The state board or a regional board may impose civil liability administratively pursuant to Article 2.5 (commencing with Section 13323) of Chapter 5 either on a daily basis or on a per gallon basis, but not both.

(1) The civil liability on a daily basis may not exceed five thousand dollars (\$5,000) for each day the violation occurs.

(A) When there is a discharge and a cleanup and abatement order is issued...the civil liability shall not be less than five hundred dollars (\$500) for each day in which the discharge occurs and for each day the cleanup and abatement order is violated."

Any person failing or refusing to furnish technical or monitoring program reports as required of section 13267, is guilty of a misdemeanor and may be liable civilly in accordance with section 13268. Subdivision (b)(1) states:

"(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs."

- a. The Dischargers violated two requirements under directive No. 4 in CAO No. R6T-2007-0038.
 - i. The maximum amount of civil liability for violation of directive No. 4.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$141,000 for 141 days of violation. This maximum administrative liability is based upon:

$$(141 \text{ days of violation of directive No. 4.2}) \times (\$1,000/\text{day of violation}) =$$
\$141,000
 - ii. The maximum amount of civil liability for violation of directive No. 4.3 of the CAO under Water Code section 13350, subdivision (e)(1) is \$1,275,000 for 255 days of violation. This maximum administrative civil liability is based upon:

$$(255 \text{ days of violation of directive No. 4.3}) \times (\$5,000/\text{day of violation}) =$$
\$1,275,000
- b. The Dischargers violated the requirements under directive No. 5 in CAO No. R6T-2007-0038.
 - i. The maximum amount of civil liability for violation of directive No. 5.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$115,000 for 115 days of violation. This maximum administrative liability is based upon:

$$(115 \text{ days of violation of directive No. 5.2}) \times (\$1,000/\text{day of violation}) =$$
\$115,000

- c. The Dischargers violated three requirements under directive No. 6 in CAO No. R6T-2007-0038.
- i. The maximum amount of civil liability for violation of directive No. 6.1 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

$$(228 \text{ days of violation of directive No. 6.1}) \times (\$1,000/\text{day of violation}) =$$
\$228,000
 - ii. The maximum amount of civil liability for violation of directive No. 6.2 of the CAO under Water Code section 13268, subdivision (b)(1) is \$242,000 for 242 days of violation. This maximum administrative civil liability is based upon:

$$(242 \text{ days of violation of directive No. 6.2}) \times (\$1,000/\text{day of violation}) =$$
\$242,000
 - iii. The maximum amount of civil liability for violation of directive No. 6.3 of the CAO under Water Code section 13268, subdivision (b)(1) is \$228,000 for 228 days of violation. This maximum administrative liability is based upon:

$$(228 \text{ days of violation of directive No. 6.3}) \times (\$1,000/\text{day of violation}) =$$
\$228,000
- d. The Dischargers violated one requirement under Directive No. 7 in CAO No. R6T-2007-0038.
- ii. The maximum amount of civil liability for violation of directive No. 7 of the CAO under Water Code section 13268, subdivision (b)(1) is \$238,000 for 238 days of violation. This maximum administrative liability is based upon:

$$(238 \text{ days of violation of directive No. 7}) \times (\$1,000/\text{day of violation}) =$$
\$238,000

The cumulative maximum administrative civil liability for violations of directive Nos. 4 – 7 of CAO No. R6T-2007-0038 is **\$2,467,000**.

25. Factors Affecting the Amount of Civil Liability

Water Code section 13327 requires the Water Board to consider enumerated factors when it determines the amount of civil liability assessed pursuant to Water Code sections 13268 and 13350. The Assistant Executive Officer of the Water

Board considered those factors in recommending the amount of the administrative civil liability:

a. The nature, circumstances, extent, and gravity of the violations;

Violating a CAO, classified as a "formal" enforcement action by the Water Quality Enforcement Policy, is a serious offense. Violating directive No. 4.2 of the CAO prevented Water Board staff from finding out actions taken to stop the source or cause of the petroleum release adversely affecting water quality. Violating directive 4.3 resulted in no containment and remediation of the discharged gasoline. Late submittal of the First Quarter 2008 Groundwater Monitoring Report in violation of directive No. 5 prevented Water Board staff from knowing the status of contamination at the site and threat to beneficial uses. The Dischargers' violation of directive No. 6 prevents knowledge of the extent and degree of petroleum hydrocarbons contamination beneath the Facility. Finally, violation of directive No. 7 prevented abatement and containment of hydrocarbons in groundwater beneath the Facility. As a result of failing to comply with these four directives by their respective deadlines, Water Board staff was without necessary information concerning contamination at the Facility for 226 days.

b. Whether discharge is susceptible to cleanup or abatement;

The discharge of petroleum products to groundwater is susceptible to abatement. For a past release at the Facility, Mr. Erickson installed and operated a pump and treat system and soil vapor extraction system. These remediation systems were effectively containing from migration and abating hydrocarbons in groundwater until the systems ceased operating on February 2, 2008.

c. The degree of toxicity of the discharge;

Groundwater at the site contained gasoline-range petroleum hydrocarbons and known toxic volatile organic carbons, including benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes. Concentrations of these petroleum constituents in groundwater exceed drinking water standards and public health goals. Levels of benzene in groundwater at the Facility exceed the one-in-a-million risk level for cancer. Since the Dischargers ceased corrective actions for eight months, the fate and migration of the petroleum constituents in groundwater is not fully unknown.

d. Ability to pay;

On April 15, 2008, the Thomas E. Erickson Trust sold the Facility located at 4029 Lake Tahoe Blvd, South Lake Tahoe, CA to Stateline Gasoline, Inc. for \$450,000. Mr. Ahmad is the agent for service for Stateline Gasoline, Inc.

Mr. Ahmad is the current owner of the following properties:

- * 1360 S. Carson Street, Carson City, NV (APN 003-063-06)
- * 1173 Monte Rosa Drive, Carson City, NV (APN 010-441-16)
- * 1197 Monte Rosa Drive, Carson City, NV (APN 010-441-15)

Mr. Ahmad also is the President of V-R Property Management, an active Nevada Corporation (Corp. No C12489-1992).

Given the assets and income described above, it appears the Dischargers are able to pay the liability.

- e. The effect on the Dischargers' ability to continue its business;

Water Board staff is not aware of any reason that the Dischargers' ability to continue their business would be affected by the proposed liability.

- f. Any voluntary cleanup efforts undertaken by the violator;

To date, the Dischargers have only implemented corrective actions at the site when ordered to by the Water Board in CAO No. R6T-2007-0038 and section 13267 orders.

- g. Prior history of violations;

Thomas E. Erickson has a history of violations in complying with directives for clean up at the Facility. In July 1999, the Water Board accessed approximately \$100,000 in state funds to conduct corrective actions at the site for one year when Mr. Erickson and other parties ceased to comply with directives in Amended CAO 6-98-42A1. In June 2000, the Water Board issued Administrative Civil Liability Order No. 6-00-60 to Mr. Erickson and other parties in the amount of \$131,000; the liability has been paid by Mr. Erickson. The civil liability was assessed at the rate of \$500 per day of violation. The only known history of violation from Mr. Ahmad was belated compliance with the deadline for technical report submittal in Water Board's June 11, 2007 directive. The technical report was eventually submitted 65 days past the original submittal deadline of July 11, 2007.

- h. Degree of culpability;

Mohammad Ahmad and The Thomas E. Erickson Trust are identified as the "Dischargers" by CAO No. R6T-2007-0038 and, thus, are ultimately responsible for compliance with CAO No. R6T-2007-0038 and applicable state laws and regulations. Despite issuance of a Notice of Violation on February 26, 2008,

Notice of Non-compliance on April 8, 2008, and repeated contacts between Water Board staff and the Dischargers' consultant, during which violations were discussed, the Dischargers failed to comply with applicable requirements.

i. Economic savings resulting from the violation;

Water Board staff has calculated the Discharger's cost savings associated with violating the CAO. The nature of such cost savings would be "avoided costs" and "delayed costs." Avoided costs include those associated with quarterly monitoring and reporting for second quarter 2008 and operating the remediation systems. Estimated avoided costs are approximately \$50,000. Delayed cost savings would be the potential interest earned on the delayed costs, which given the short violation period addressed by this Complaint would be small and substantially less than the proposed liability.

j. Other matters as justice may require.

Staff Costs

Staff from the State and Regional Boards have spent time responding to the incident and preparing the Administrative Civil Liability Complaint. Estimated staff costs for investigation and complaint preparation are **\$16,943**.

26. Amount of Civil Liability

The Assistant Executive Officer of the Water Board considered the above factors and proposes that administrative civil liability be imposed by the Water Board at a rate of \$500 per day for a total of 255 days of violation of Water Code section 13304 and at a rate of \$100 per day for a total of 1,192 days of violation of Water Code section 13267 for a total amount of **\$246,700**.

WAIVER OF HEARING

You may waive the right to a hearing. Waiver of your right to a hearing constitutes acceptance of the assessment of civil liability in the amount set forth within the Complaint. If you wish to waive your right to a hearing, an authorized person must sign the Waiver of Hearing form prepared for this Complaint.

Please note that any settlement will not be effective until reasonable opportunity for public participation has been provided pursuant to title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) and the State Water Board's 2002 Enforcement Policy. The Water Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. Any settlement will not become final until after the public comment period.


Payment of the liability will be due within 30 days of the settlement becoming final. . .
Payment must be made with cashier's checks or money orders made payable as follows:

\$119,200 payable to the **State Water Board, Cleanup and Abatement Account.**

\$127,500 payable to the **State Water Board, Waste Discharge Permit Fund.**

Send your remittance to:

Lahontan Regional Water Quality Control Board
Attn: Robert S. Dodds, Assistant Executive Officer
2501 Lake Tahoe Boulevard
South Lake Tahoe, CA 96150

Ordered by: 
Robert S. Dodds
Assistant Executive Officer

Dated: April 14, 2009

Attachments: A. Site Vicinity Map
B. Cleanup and Abatement Order No. R6T-2007-0038
C. February 26, 2008 Notice of Violation
D. April 8, 2008 Notice of Non-compliance

